

**DISTRICT OF COLUMBIA COURT OF APPEALS**

No. 16-AA-0705

UNION MARKET NEIGHBORS, PETITIONER,

v.

DISTRICT OF COLUMBIA ZONING COMMISSION, RESPONDENT,

and

301 FLORIDA AVE MANAGER, LLC, INTERVENOR.

On Petition for Review of an Order of the  
District of Columbia Zoning Commission  
(ZC-22-15)

(Argued October 12, 2017)

Decided November 22, 2017)

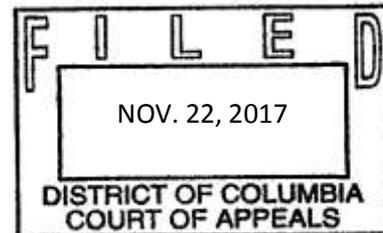
Before FISHER and BECKWITH, *Associate Judges*, and PRYOR, *Senior Judge*.

**MEMORANDUM OPINION AND JUDGMENT**

PER CURIAM: Union Market Neighbors (“UMN” or “petitioner”) seeks review of the District of Columbia Zoning Commission’s Order 15-22 granting 301 FL Manager LLC (“301 FL Manager”) permission to develop a Planned Unit Development (“PUD”) at 301 Florida Avenue, NE, and a related zoning map amendment. UMN argues the PUD is inconsistent with the legal and regulatory structure governing development in the District of Columbia. Because petitioner has not demonstrated that it has standing to challenge Zoning Commission Order No. 15-22, we do not reach the merits of UMN’s claims.

**I.**

On September 4, 2015, 301 FL Manager applied to the District of Columbia Zoning Commission for approval of a PUD and related map amendment to permit construction of a mixed-use residential building on a small, triangular lot at Square 722N, Lot 803. The proposal consists of a new eight-story residential building, as well as ground floor retail uses. On December 2, 2015, a notice of public hearing



was mailed to all property owners within 200 feet of the PUD, as well as the Advisory Neighborhood Commission (“ANC”) 6C, the ANC in which the PUD is located, ANC 5D, and the ANC across the street from the PUD. On December 25, 2015, both a description of the PUD and a notice of the public hearing were published in the D.C. Register. On February 22, 2016, the Commission held a public hearing on the PUD Application. 301 FL Manager appeared as a party to the proceedings. No other entity sought party status, and no group nor individual appeared, testified, or submitted any materials in opposition to the project. The issues which petitioner now attempts to raise in this court were not presented to the Zoning Commission before it issued its order.

On May 12, 2016, the Zoning Commission voted to adopt Order No. 15-22, approving the request to develop the PUD. The order was subsequently published in the D.C. Register on June 17, 2016. 63 D.C. Reg. 26 (2016). On June 20, 2016, UMN submitted a Motion to Reconsider, attaching forms signed by its purported members. The fill-in-the-blank forms permitted individuals to provide their name and contact information, as well as check boxes expressing concerns about “destabilization of land values,” “environmental impacts,” or “public service impacts.” The forms also left a blank space for the individual to write in any other comments, some of which included concerns about “building more homes for veterans” and about “overdevelopment” in the neighborhood. These forms were signed on June 13, 2016. On June 27, 2016, the Commission denied the Motion on grounds that UMN had surpassed the regulatory window to file a motion to reconsider.

## II.

This court has held that “to resolve issues of standing, we ‘look to federal standing jurisprudence, both constitutional and prudential.’” *York Apartments Tenants Ass’n v. District of Columbia Zoning Comm’n*, 856 A.2d 1079, 1083-84 (D.C. 2004) (quoting *Friends of Tilden Park, Inc. v. District of Columbia*, 806 A.2d 1201, 1206 (D.C. 2002)) (internal citation omitted). Under the prudential principles of standing, “a plaintiff may assert only its own legal rights [and] may not attempt to litigate generalized grievances . . . .” *Id.* at 1084 (quoting *Friends of Tilden Park*, 806 A.2d at 1207 n.5 (internal quotation marks and citation omitted)). The party seeking redress has the burden of establishing its standing to do so. *See Friends of Tilden Park*, 806 A.2d at 1209-10.

UMN lacks standing to pursue its claim against the Zoning Commission because it has failed to allege actual injuries suffered by its members that are not generalized grievances. Most notably, the petitioner’s forms never specifically

reference the proposed development at 301 Florida Avenue, NE, and none of the signatories actually allege any specific injuries with respect to this PUD.<sup>1</sup> Grievances such as “destabilization of land values” and “environmental impacts” listed on the forms, as well as broad concerns about overdevelopment in the community, are not personal to UMN nor its members, and are therefore generalized. *See York Apartments Tenants Ass’n*, 856 A.2d at 1084 (holding that petitioner’s allegations were generalized grievances because they were not personal to the petitioner, but instead affected the Downtown area at large); *Speyer v. Berry*, 588 A.2d 1147, 1161, 1161 n.27 (D.C. 1991) (finding that allegations of inappropriate use of tax revenues was not personal to petitioners but was instead a generalized grievance, even though the petitioners were residents of the area). *Cf. D.C. Library Renaissance Project/West End Library Advisory Grp. v. District of Columbia Zoning Comm’n*, 73 A.3d 107, 113 (D.C. 2013) (finding adequate injury-in-fact as implementation of the PUD would cause its members to lose the use and enjoyment of the current library without an adequate replacement). The fill-in-the-blank forms do not alert this court to any injuries beyond generalized grievances, and therefore, petitioner has not sufficiently alleged facts demonstrating that it has standing.

Moreover, despite ample public notice of the proceedings, neither it nor any of its members sought party status or participated in any way in the proceedings before the Commission for review and approval of this PUD.

### III.

For the foregoing reasons, we dismiss the petition for failure to demonstrate that it has standing.

*Affirmed.*

ENTERED BY DIRECTION OF THE COURT:



JULIO A. CASTILLO  
Clerk of the Court

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<sup>1</sup> Petitioner’s forms contained preprinted language, which lists several Zoning Commission case numbers, including this one.

**(No. 16-AA-705)**

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